# POMERANTZ

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February 17, 2011

**VIA FEDERAL EXPRESS**

Mary L. Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

**Re: *Morrison v. National Australia Bank, Ltd.***

Dear Chairman Schapiro:

The Securities and Exchange Commission ("SEC"), pursuant to the Dodd-Frank Act, has asked for public comment regarding the Supreme Court's decision in *Morrison v. Nat'l Australia Bank*, regarding the extraterritorial application of Section 10(b) of the Securities Exchange Act. I enclose letters from a number of prominent pension funds and investment houses in the United Kingdom and Israel expressing concern regarding the ramifications of the Supreme Court's ruling.

In short, these letters state that the proper standard for applying Section 10(b) of the Securities Exchange Act extraterritorially should be the one employed by the Second Circuit Court of Appeals prior to *Morrison*. Moreover, these institutional investors are concerned that under the standard articulated by *Morrison*, international investors in U.S. corporations that purchased stock on a non-U.S. exchange would not be offered the same protections under U.S. law as investors who purchased the selfsame stock on a U.S. exchange. Under those circumstances, such non-U.S. investors would essentially be rendered an inferior class of shareholders. Such a double-standard does not comport with the growing reality of the globalization of the international securities markets.

We do hope that the SEC will consider these comments, and urge Congress to pass legislation that will properly protect both U.S. and international investors from securities fraud occurring within the borders of the United States.

Respectfully Yours,

Jeremy A. Lieberman

Enclosures

**British Coal Staff Superannuation Scheme**

**From: Coal Pension Trustees**
Hussar Court, Hillsborough Barracks
Sheffield, S Yorks S6 2GZ
Telephone: 0114 285 4604

Finance Department
Direct Line: 0114 285 4603
Direct Fax: 0114 285 4606

Mary L. Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

13 December 2010

**Re: *Morrison v. National Australia Bank, Ltd.***

Dear Chairman Schapiro:

British Coal Staff Superannuation Scheme, a pension scheme with £9 billion under management located in Sheffield, England, writes this letter in response to the Securities and Exchange Commission's ("SEC") request for comments regarding whether the scope of the antifraud provisions of the Securities Exchange Act of 1934 should be extended to private rights of action in cases of transnational securities fraud to the same extent as that provided by Section 929P of the Dodd-Frank Act. We believe that they should.

We submit that the United States Supreme Court's ruling in *Morrison v. National Australia Bank,* 130 S. Ct. 2869 (2010) has drastically limited the ability of institutional investors in the United Kingdom to seek rightful redress in the United States for fraud occurring within its borders. Thus, UK institutional investors have been stripped of a key instrument for providing relief to its fiduciaries who have fallen victim to U.S. based securities fraud. For example, in *In re BP, P.L.C. Sec Litig.,* 4:10-md-02185 (S.D. Tex. 2010) the claims of thousands of UK institutional investors who have purchased BP Plc ("BP") shares on the London Stock Exchange ("LSE") have been scuttled as a result of *Morrison*, despite the fact that the crux of the allegations of fraud in that case relate to U.S. based conduct.

Moreover, in instances where a U.S. based corporation lists shares both on the United States exchange and the LSE, *Morrison* will have the effect of unfairly prejudicing U.K. shareholders. Prior to *Morrison*, U.K. shareholders had the same ability to participate in U.S. securities class actions as their U.S. counterparts in instances where significant fraudulent conduct occurred in the United States. Under a literal reading of *Morisson* however, UK investors have been stripped of the ability to participate in such actions solely because they executed their transactions on a non-U.S. exchange. Thus, an

BCSSS

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absurdity has been created whereby an investor that purchased shares of a U.S. corporation on the LSE (or any other non-U.S. exchange) will be denied the same rights and protections as an investor that purchased shares of the selfsame corporation on a U.S. exchange. Consequently, under *Morrison*, purchasers of U.S. corporate stock on non-U.S. exchanges are now rendered an inferior class of shareholders.

**Remedy**

In light of the serious consequences facing UK investors as a result of *Morrison*, we believe that the decision must be remedied immediately. Specifically, we believe that the Exchange Act should be amended to adopt the approach previously endorsed by the Second Circuit, representing decades of jurisprudence, to give investors the ability to bring an action in the United States under Section 10(b) when conduct occurring within the United States was a significant step in furtherance of the fraud, or when such fraud has a substantial effect in the United States. Such an amendment would simply provide investors with the ability to pursue claims that is co-extensive with the enforcement jurisdiction afforded to the Securities Exchange Commission and Department of Justice under the recently enacted Dodd-Frank Act.

At the very least, the protections of Section 10(b) should extend to international investors in U.S. domiciled corporations, regardless of the exchange's locale. Such a rule would prevent the creation of an inferior class of shareholders who have purchased shares on non-U.S. exchanges. In order to avoid creating a temporal gap in this critical remedy, this amendment should be made to all cases filed since the issuance of the *Morrison* decision.

Mike Hensman
Financial Controller

**From: Coal Pension Trustees**
Hussar Court, Hillsborough Barracks
Sheffield, S Yorks S6 2GZ
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Mary L. Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

13 December 2010

**Re: *Morrison v. National Australia Bank, Ltd.***

Dear Chairman Schapiro:

Mineworkers' Pension Scheme, a pension scheme with £11 billion under management located in Sheffield, England, writes this letter in response to the Securities and Exchange Commission's ("SEC") request for comments regarding whether the scope of the antifraud provisions of the Securities Exchange Act of 1934 should be extended to private rights of action in cases of transnational securities fraud to the same extent as that provided by Section 929P of the Dodd-Frank Act. We believe that they should.

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Moreover, in instances where a U.S. based corporation lists shares both on the United States exchange and the LSE, *Morrison* will have the effect of unfairly prejudicing U.K. shareholders. Prior to *Morrison*, U.K. shareholders had the same ability to participate in U.S. securities class actions as their U.S. counterparts in instances where significant fraudulent conduct occurred in the United States. Under a literal reading of *Morisson* however, UK investors have been stripped of the ability to participate in such actions solely because they executed their transactions on a non-U.S. exchange. Thus, an absurdity has been created whereby an investor that purchased shares of a U.S.

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Mike Hensman
Financial Controller

Lothian
PENSION FUND

Mary L. Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Date 16 December 2010

**Re:** ***Morrison v. National Australia Bank, Ltd.***

Dear Chairman Schapiro:

Lothian Pension Fund, a pension scheme with $4 billion under management located in Edinburgh, United Kingdom, writes this letter in response to the Securities and Exchange Commission's ("SEC") request for comments regarding whether the scope of the antifraud provisions of the Securities Exchange Act of 1934 should be extended to private rights of action in cases of transnational securities fraud to the same extent as that provided by Section 929P of the Dodd-Frank Act. We believe that they should.

We submit that the United States Supreme Court's ruling in *Morrison v. National Australia Bank,* 130 S. Ct. 2869 (2010) has drastically limited the ability of institutional investors in the United Kingdom to seek rightful redress in the United States for fraud occurring within its borders. Thus, UK institutional investors have been stripped of a key instrument for providing relief to its fiduciaries who have fallen victim to U.S. based securities fraud. For example, in *In re BP, P.L.C. Sec Litig.,* 4:10-md-02185 (S.D. Tex. 2010) the claims of thousands of UK institutional investors who have purchased BP Plc ("BP") shares on the London Stock Exchange ("LSE") have been scuttled as a result of *Morrison,* despite the fact that the crux of the allegations of fraud in that case relate to U.S. based conduct.

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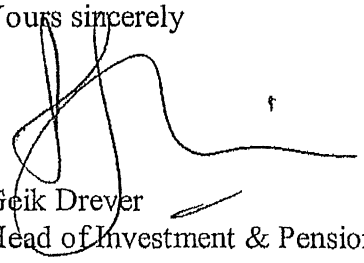
Yours sincerely



Geik Drever
Head of Investment & Pensions

For and on behalf of
City of Edinburgh Council as Administering Authority
for Lothian Pension Fund

CLAL FINANCE

January 5, 2011

Mary L. Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Re: ***Morrison v. National Australia Bank, Ltd.***

Dear Chairman Schapiro:

Clal Finance Batucha Investment Management Ltd., a $7.5 billion dollar asset management located in Tel Aviv, Israel, writes this letter in response to the Securities and Exchange Commission's ("SEC") request for comments regarding whether the scope of the antifraud provisions of the Securities Exchange Act of 1934 should extend to private rights of action in cases of transnational securities fraud to the same extent as that provided by Section 929P of the Dodd-Frank Act. We believe that they should.

We submit that the United States Supreme Court's ruling in *Morrison v. National Australia Bank,* 130 S. Ct. 2869 (2010) has drastically limited the ability of institutional investors in Israel to seek rightful redress in the United States for fraud occurring within its borders. Thus, Israeli institutional investors have been stripped of a key instrument for providing relief to its fiduciaries who have fallen victim to U.S. based securities fraud. For example, in *In re Perrigo Co. Sec. Litig.*, a case in which a number of Israeli institutional investors have a substantial monetary interest, Defendants filed Motions to Dismiss based upon the *Morrison* decision. The court's granting of those motions will sound the death knell of a recovery for Israeli investors who purchased their Perrigo securities on the Tel Aviv Stock Exchnage ("TASE").

Moreover, the application of the *Morrison* decision to companies that are dual listed on the TASE and a U.S. exchange directly contradicts the purpose of the Dual Listing Amendment to Israel's Securities Act of 1968 (the "1968 Act"). This Amendment, which was adopted in 2000, allows public corporations listed on U.S. or U.K. exchanges to register their shares on the TASE without any additional reporting requirements or fees. The Dual Listing law is based upon the "unilateral recognition" principle, whereby Israel relies on the protections of a foreign regulatory regime to protect its own investors on the assumption that the securities laws of that regime will apply equally to TASE shareholders. In light of this principle, Israel's Central District Court in *Verifone Holdings, Inc. v. David Stern* held that a securities class action against a dual listed corporation on behalf of TASE shareholders could not proceed in Israel, as the Dual Listing Amendment already afforded such investors appropriate remedies under U.S. law.

**Clal Finance Ltd.**
Dolinstein House, 47 Menachem Begin Road, 24th fl., Tel Aviv 66180, Israel Tel. +972-3-5653501 Fax +972-77-6383146 **Website** www.clal.co.il

This assumption has now been undercut by *Morrison,* which holds that only investors who purchased securities on U.S. exchanges are allowed to bring a private action under Section 10(b) of the Securities Exchange Act. Thus, an absurdity has been created whereby an investor that purchased shares of a U.S. corporation on the TASE will be denied the same rights and protections as an investor that purchased shares of the selfsame corporation on a U.S. exchange. Thus, *Morrison* essentially renders TASE purchasers an inferior class of shareholders, tearing at the basic fabric of the "unilateral recognition" principle.

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At the very least, a private right of action under Section 10(b) should extend to purchasers of corporations listed on both the TASE and a U.S. stock exchange pursuant to the Dual Listing Amendment. Such a rule would comport with Israel's "unilateral recognition" principle, which allows U.S. listed corporations to raise capital in Israel without adhering to any additional reporting requirements. In order to avoid creating a temporal gap in this critical remedy, this amendment should be made to all cases filed since the issuance of the *Morrison* decision.

Sincerely,

Yoram Naveh, CEO
Clal Finance Batucha Investment Management Ltd.

Halman-Aldubi Group

Halman-Aldubi. Investing in you

January 5th, 2011

Mary L. Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

**Re: *Morrison v. National Australia Bank, Ltd.***

Dear Chairman Schapiro:

Halman-Aldubi Provident and Pension Funds Ltd. and Halman-Aldubi Mutual Funds Ltd, ~$3 billion dollar asset management companies located in Ramat Gan, Israel, write this letter in response to the Securities and Exchange Commission's ("SEC") request for comments regarding whether the scope of the antifraud provisions of the Securities Exchange Act of 1934 should extend to private rights of action in cases of transnational securities fraud to the same extent as that provided by Section 929P of the Dodd-Frank Act. We believe that they should.

We submit that the United States Supreme Court's ruling in Morrison v. National Australia Bank, 130 S. Ct. 2869 (2010) has drastically limited the ability of institutional investors in Israel to seek rightful redress in the United States for fraud occurring within its borders. Thus, Israeli institutional investors have been stripped of a key instrument for providing relief to its fiduciaries who have fallen victim to U.S. based securities fraud. For example, in In re Perrigo Co. Sec. Litig., a case in which a number of Israeli institutional investors have a substantial monetary interest, Defendants filed Motions to Dismiss based upon the Morrison decision. The court's granting of those motions will sound the death knell of a recovery for Israeli investors who purchased their Perrigo securities on the Tel Aviv Stock Exchange ("TASE").

Moreover, the application of the Morrison decision to companies that are dual listed on the TASE and a U.S. exchange directly contradicts the purpose of the Dual Listing Amendment to Israel's Securities Act of 1968 (the "1968 Act"). This Amendment, which was adopted in 2000, allows public corporations listed on U.S. or U.K. exchanges to register their shares on the TASE without any additional reporting requirements or fees. The Dual Listing law is based upon the "unilateral recognition" principle, whereby Israel relies on the protections of a foreign regulatory regime to protect its own investors on the assumption that the securities laws of that regime will apply equally to TASE shareholders. In light of this principle, Israel's Central District Court in Verifone Holdings, Inc. v. David Stern held that a securities class action against a dual listed corporation on behalf of TASE shareholders could not proceed in Israel, as the Dual Listing Amendment already afforded such investors appropriate remedies under U.S. law.

This assumption has now been undercut by Morrison, which holds that only investors who purchased securities on U.S. exchanges are allowed to bring a private action under Section 10(b) of the Securities Exchange Act. Thus, an absurdity has been created whereby an investor that purchased shares of a U.S. corporation on the TASE will be denied the same rights and protections

as an investor that purchased shares of the selfsame corporation on a U.S. exchange. Thus, Morrison essentially renders TASE purchasers an inferior class of shareholders, tearing at the basic fabric of the "unilateral recognition" principle.

**Remedy**

In light of the serious consequences facing Israeli investors as a result of Morrison, we believe that the decision must be remedied immediately. Specifically, we believe that the Exchange Act should be amended to adopt the approach previously endorsed by the Second Circuit, representing decades of jurisprudence, to give investors the ability to bring an action in the United States under Section 10(b) when conduct occurring within the United States was a significant step in furtherance of the fraud, or when such fraud has a substantial effect in the United States. Such an amendment would simply provide investors with the ability to pursue claims that is co-extensive with the enforcement jurisdiction afforded to the Securities Exchange Commission and Department of Justice under the recently enacted Dodd-Frank Act.

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Sincerely,

Halman-Aldubi Provident and Pension Funds Ltd.

Halman-Aldubi Mutual Funds Ltd.


1.5.2011

Mary L. Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

**Re: *Morrison v. National Australia Bank, Ltd.***

Dear Chairman Schapiro:

ILD Insurance Company LTD a leading Israeli institutional entity, with $1.2 billion dollar investment portfolio, located in Tel Aviv, Israel, writes this letter in response to the Securities and Exchange Commission's ("SEC") request for comments regarding whether the scope of the antifraud provisions of the Securities Exchange Act of 1934 should extend to private rights of action in cases of transnational securities fraud to the same extent as that provided by Section 929P of the Dodd-Frank Act. We believe that they should.

We submit that the United States Supreme Court's ruling in *Morrison v. National Australia Bank,* 130 S. Ct. 2869 (2010) has drastically limited the ability of institutional investors in Israel to seek rightful redress in the United States for fraud occurring within its borders. Thus, Israeli institutional investors have been stripped of a key instrument for providing relief to its fiduciaries who have fallen victim to U.S. based securities fraud. For example, in *In re Perrigo Co. Sec. Litig.*, a case in which a number of Israeli institutional investors have a substantial monetary interest, Defendants filed Motions to Dismiss based upon the *Morrison* decision. The court's granting of those motions will sound the death knell of a recovery for Israeli investors who purchased their Perrigo securities on the Tel Aviv Stock Exchnage ("TASE").

Moreover, the application of the *Morrison* decision to companies that are dual listed on the TASE and a U.S. exchange directly contradicts the purpose of the Dual Listing Amendment to Israel's Securities Act of 1968 (the "1968 Act"). This Amendment, which was adopted in 2000, allows public corporations listed on U.S. or U.K. exchanges to register their shares on the TASE without any additional reporting requirements or fees. The Dual Listing law is based upon the "unilateral recognition" principle, whereby Israel relies on the protections of a foreign regulatory regime to protect its own investors on the assumption that the securities laws of that regime will apply equally to TASE shareholders. In light of this principle, Israel's Central District Court in *Verifone Holdings, Inc. v. David Stern* held that a securities class action against a dual listed corporation on behalf of TASE shareholders could not proceed in Israel, as the Dual Listing Amendment already afforded such investors appropriate remedies under U.S. law.

This assumption has now been undercut by *Morrison,* which holds that only investors who purchased securities on U.S. exchanges are allowed to bring a private action under Section 10(b) of the Securities Exchange Act. Thus, an absurdity has been created whereby an investor that purchased shares of a U.S. corporation on the TASE will be denied the same rights and protections as an investor that purchased shares of the selfsame corporation on a U.S. exchange. Thus, *Morrison* essentially renders TASE purchasers an inferior class of shareholders, tearing at the basic fabric of the "unilateral recognition" principle.

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Sincerely,

ILD Insurance Company LTD
2 Shenkar St. Tel Aviv
ISRAEL

I.L.D. INSURANCE CO. LTD.

Mary L. Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

January 31th, 2011

**Re: *Morrison v. National Australia Bank, Ltd.***

Dear Chairman Schapiro:

The Phoenix Holdings Ltd., a $ 30 billion dollar asset management located in Tel Aviv, Israel writes this letter in response to the Securities and Exchange Commission's ("SEC") request for comments regarding whether the scope of the antifraud provisions of the Securities Exchange Act of 1934 should extend to private rights of action in cases of transnational securities fraud to the same extent as that provided by Section 929P of the Dodd-Frank Act. We believe that they should.

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Sincerely,

The Phoenix Holdings Ltd.

MNOPF

MNOPF Trustees Limited
Leatherhead House
Station Road
Leatherhead
Surrey
KT22 7ET

Tel +44 (0)1372 200900
Fax +44 (0)1372 200920
employer.enquiries@mnopf.co.uk
mnopf.memberenquiries@mnpa.co.uk
www.mnopf.co.uk

Mary L. Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549
USA

31 January 2011

Dear Chairman Schapiro,

Re: Morrison v. National Australia Bank, Ltd.

I am writing on behalf of the Merchant Navy Officers Pension Fund (MNOPF) in response to the Securities and Exchange Commission's request for comments on the scope of the antifraud provisions of the Securities Exchange Act of 1934. MNOPF was established in 1938 to provide pensions for Officers of the British Merchant Navy and their dependants. The Fund is governed by a trustee board made up of representatives of the members and the sponsoring employers, has assets of more than £3 billion, and provides benefits to nearly 52,000 members.

We believe that the provisions of the 1934 Act should be extended to private rights of action in cases of transnational securities fraud to the same extent as that provided by Section 929P of the Dodd-Frank Act. We have been advised that the United States Supreme Court's ruling in Morrison v. National Australia Bank, 130 S. Ct. 2869 (2010) has drastically limited the ability of institutional investors in the United Kingdom to seek rightful redress in the United States for fraud occurring within its borders. Thus, UK institutional investors have been stripped of a key instrument for providing relief to its fiduciaries who have fallen victim to U.S. based securities fraud.

Moreover, in instances where a U.S. based corporation lists shares both on the United States exchange and on the London Stock Exchange, Morrison will have the effect of unfairly prejudicing U.K. shareholders. Prior to Morrison, U.K. shareholders had the same ability to participate in U.S. securities class actions as their U.S. counterparts in instances where significant fraudulent conduct occurred in the United States. Under a literal reading of Morrison however, UK investors have been stripped of the ability to participate in such actions solely because they executed their transactions on a non-U.S. exchange.

In light of the serious consequences facing UK investors as a result of Morrison, we believe that the decision must be remedied immediately. Specifically, we propose that the Exchange Act should be amended to adopt the approach previously endorsed by the Second Circuit, representing decades of jurisprudence. Such an amendment would give investors the ability to bring an action in the United States under Section 10(b) when conduct occurring within the United States was a significant step in furtherance of the fraud, or when such fraud has a substantial effect in the United States. The amendment would simply provide investors with the ability to pursue claims that is co-extensive with

MNOPF

the enforcement jurisdiction afforded to the Securities Exchange Commission and Department of Justice under the recently enacted Dodd-Frank Act.

At the very least, the protections of Section 10(b) should extend to international investors in U.S. domiciled corporations, regardless of the exchange's locale. Such a rule would prevent the creation of an inferior class of shareholders who have purchased shares on non-U.S. exchanges. In order to avoid creating a temporal gap in this critical remedy, we believe that this amendment should be made to all cases filed since the issuance of the Morrison decision.

I hope the Commission will give our proposal favourable consideration.

Yours sincerely

Andrew Waring
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MNOPF Trustees Ltd

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Staffordshire County Council

Mary L. Schapiro
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

**Re:** ***Morrison v. National Australia Bank, Ltd.***

Dear Chairman Schapiro:

Staffordshire County Council Pension Fund, a pension scheme with $3.6 billion under management located in Staffordshire, England, writes this letter in response to the Securities and Exchange Commission's ("SEC") request for comments regarding whether the scope of the antifraud provisions of the Securities Exchange Act of 1934 should be extended to private rights of action in cases of transnational securities fraud to the same extent as that provided by Section 929P of the Dodd-Frank Act. We believe that they should.

We submit that the United States Supreme Court's ruling in *Morrison v. National Australia Bank,* 130 S. Ct. 2869 (2010) has drastically limited the ability of institutional investors in the United Kingdom to seek rightful redress in the United States for fraud occurring within its borders. Thus, UK institutional investors have been stripped of a key instrument for providing relief to its fiduciaries who have fallen victim to U.S. based securities fraud. For example, in *In re BP, P.L.C. Sec Litig.*, 4:10-md-02185 (S.D. Tex. 2010) the claims of thousands of UK institutional investors who purchased BP Plc ("BP") shares on the London Stock Exchange ("LSE") have been scuttled as a result of *Morrison*, despite the fact that the crux of the allegations of fraud in that case relate to U.S.- based conduct.

Moreover, in instances where a U.S.- based corporation lists shares both on the United States exchange and the LSE, *Morrison* will have the effect of unfairly prejudicing U.K. shareholders. Prior to *Morrison*, U.K. shareholders had the same legal protections as their U.S. counterparts in instances where significant fraudulent conduct occurred in the United States. Under a literal reading of *Morisson* however, UK investors have been stripped of the ability to participate in such actions solely because they executed their transactions on a non-U.S. exchange. Thus, an absurdity has been created whereby an investor that purchased shares of a U.S. corporation on the LSE (or any other non-U.S. exchange) will be denied the same rights and protections as an investor that purchased shares of the selfsame corporation on a U.S. exchange. Consequently, under *Morrison*, purchasers of U.S. corporate stock on non-U.S. exchanges are now essentially rendered an inferior class of shareholders.

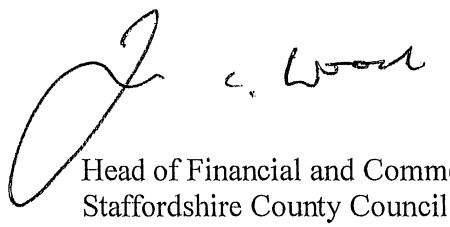
**Remedy**

In light of the serious consequences facing UK investors as a result of *Morrison*, we believe that the decision must be remedied immediately. Specifically, we believe that the Exchange Act should be amended to adopt the approach previously endorsed by the Second Circuit, representing decades of jurisprudence, to give investors the ability to bring an action in the United States under Section 10(b) when conduct occurring within the United States was a significant step in furtherance of the fraud, or when such fraud has a substantial effect in the United States. Such an amendment would simply provide investors with the ability to pursue claims that is co-extensive with the enforcement jurisdiction afforded to the Securities Exchange Commission and Department of Justice under the recently enacted Dodd-Frank Act.

At the very least, the protections of Section 10(b) should extend to international investors in U.S. domiciled corporations, regardless of the exchange's locale. Such a rule would prevent the creation of an inferior class of shareholders who have purchased shares on non-U.S. exchanges. In order to avoid creating a temporal gap in this critical remedy, this amendment should be made to all cases filed since the issuance of the *Morrison* decision.

Yours Sincerely

John Wood



Head of Financial and Commercial Services
Staffordshire County Council